

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY**

GODFRED SEKYERE,)	
)	
Appellant,)	
)	
v.)	C.A. No. N13A-07-010-DCS
)	
UNEMPLOYMENT INSURANCE)	
APPEAL BOARD,)	
)	
Appellee.)	

Submitted: February 6, 2014
Decided: May 20, 2014

On Appeal from the Decision of the Unemployment Insurance Appeal Board –
REVERSED and REMANDED.

OPINION

Godfred Sekyere, *Pro Se* Appellant, Lawrenceville, GA.

Catherine Damavandi, Esquire, Deputy Attorney General, Department of Justice, Wilmington, Delaware, Attorney for Appellee the Unemployment Insurance Appeal Board.

STRETT, J.

Introduction

Appellant Godfred Sekyere (“Appellant”) appeals the July 9, 2013 decision of the Unemployment Insurance Appeal Board (the “Board”). The Board found that Appellant’s appeal to the Board was untimely under 19 *Del. C.* § 3318(c)¹ because Appellant had filed an appeal more than 10 days after the Appeals Referee’s decision was mailed. The Board denied further review on that basis.

The record, however, reflects that the Delaware Department of Labor (the “DOL”) initially mailed the Appeals Referee’s decision to an incorrect address (some other unit number at Appellant’s apartment complex), discovered the error two days later, and mailed the decision to Appellant’s correct address of record the following day without adjusting the deadline for Appellant to file an appeal. Additionally, the record also shows that the DOL had mailed other notices (i.e., two disqualification determinations, one determination of an untimely appeal, and notice of a hearing on the issue of untimeliness) to an incorrect unit number.

Accordingly, the Board’s decision is reversed and the matter is remanded for further proceedings.

¹ 19 *Del. C.* § 3318(c) states, in relevant part, “[t]he parties shall be duly notified of the [Appeals Referee’s] decision, together with its reason therefor, which shall be deemed final unless within 10 days after the date of notification or mailing of such decision further appeal is initiated pursuant to [19 *Del. C.* § 3320].”

Factual and Procedural Background

On November 30, 2011, Appellant completed and signed an “Initial Interstate Claim” form, in which he sought unemployment benefits effective November 27, 2011.² Appellant indicated on the form that his mailing address was: “158 Paper Mill Rd *Apt 1102* Lawrenceville, GA 30046.”³

There is no indication from the record what, if anything, transpired after Appellant submitted the Initial Interstate Claim form in November 2011 until more than two months later, when he submitted an enrollment verification to the DOL in February 2012.

On February 13, 2012, Appellant faxed a document to “Miss Austin” at the DOL which verified that Appellant was enrolled as a full-time student at Georgia Perimeter College in Clarkston, Georgia from January 9, 2012 through May 7, 2012.⁴

² Record at 15 – 16 (hereinafter “R. at _____”).

The record begins with Appellant’s November 30, 2011 interstate claim form. No prior claim forms or determinations are included in the record, so it is unclear whether Appellant previously received or was deemed ineligible for unemployment benefits, however Appellant states in his appeal that he “filled [*sic*] unemployment in October 7th 2011” and apparently was subsequently deemed to owe money to the DOL. *See* Notice of Appeal, 2 (July 16, 2013).

³ R. at 15 (emphasis added).

Appellant also reported that he was most recently employed by Fresenius Medical in Dover, Delaware as a dialysis technician from August 16, 2010 through July 25, 2011. He checked “Other*” on the form as the reason for his separation from employment.

⁴ R. at 2 – 5.

Leann Austin is the Claims Deputy who subsequently determined that Appellant was ineligible to receive unemployment benefits. *See* R. at 10 – 11; 24 – 25.

On February 15, 2012, the Claims Deputy issued a “Notice of Determination” that Appellant was ineligible to receive benefits under 19 *Del. C.* § 3315(3)⁵, effective with or for the week ending January 14, 2012.⁶ However, the record does not include a copy of the Claims Deputy’s certification that the Notice of Determination was mailed to Appellant and, in any event, the unit number on the Notice of Determination differed from the unit number supplied by Appellant.⁷

On March 16, 2012, the Claims Deputy issued a Notice of Determination that Appellant was ineligible for the receipt of benefits under 19 *Del. C.* § 3315(2), effective with or for the week ending February 18, 2012.⁸ The Claims Deputy certified that a copy of the Notice of Determination was mailed by first class mail to Appellant on March 16, 2012.⁹

The March 16, 2012 Notice of Determination was in response to an “Initial Interstate Claim” form for benefits effective March 4, 2012 which Appellant had

⁵ Ineligibility was based on Appellant’s full-time enrollment in the nursing program at Georgia Perimeter College from January 9, 2012 to May 7, 2012. Appellant had reported to the DOL that he attended class Monday through Thursday from 8:00 a.m. to 8:00 p.m., he was only available for part-time work on Fridays and Saturdays, and his primary objective was to complete school.

⁶ The record does not indicate whether any unemployment benefits were paid in December 2011 or early January 2012.

⁷ R. at 21. The address on the Notice of Determination was: 158 Paper Mill Rd *Apt 110* Lawrenceville, GA 30046.

⁸ R. at 20 – 21.

Appellant was ineligible for benefits because the DOL had received a pay authorization for Appellant that preceded the date that he filed for unemployment benefits.

⁹ R. at 21.

completed on March 5, 2012.¹⁰ Appellant again indicated on the form that his mailing address was: “158 Paper Mill Rd *Apt 1102* Lawrenceville, GA 30046.”¹¹ However, the address in the certification was, again, to an incorrect unit number.¹²

There is no indication from the record that Appellant or the DOL took any further action after the DOL issued the March 16, 2012 ineligibility determination and before Appellant filed an appeal in May 2013.

On May 13, 2013, the DOL received a letter from Appellant who wrote “to appeal the decision the department made regarding the supposed overpayment.”¹³ Appellant asked the DOL to reconsider a “repayment” decision (the date of which is unclear from the record) because he was “only attending school part time” and was “actively looking for work during [an unspecified] time period.”¹⁴ Appellant, again, provided his address.¹⁵

On May 22, 2013, the Claims Deputy issued a Notice of Determination and found that Appellant’s appeal was late and that the February 15, 2012 disqualification determination had become final and binding pursuant to 19 *Del. C.*

¹⁰ R. at 17 – 18.

¹¹ R. at 17 (emphasis added).

¹² R. at 21. The address on the certification was: 158 Paper Mill Rd *Apt 110* Lawrenceville, GA 30046.

¹³ R. at 31 – 32.

The letter did not reference a specific Notice of Determination or how or when Appellant learned of the Notice of Determination.

¹⁴ R. at 32.

¹⁵ *Id.* (“158 Paper Mill Rd #1102 Lawrenceville GA 30046”). See also R. at 28. The return address on the postmarked envelope is also “158 Paper Mill Rd #1102 Lawrenceville GA 30046.”

§ 3318(b) because Appellant did not file a timely appeal.¹⁶ The Claims Deputy also found that “an appeal may be filed solely to consider the issue of timeliness” and stated that all parties would be notified of the date, time, and place of a hearing to address the issue of timeliness.¹⁷ The Claims Deputy certified that a copy of the Notice of Determination was mailed by first class mail to Appellant on May 22, 2012 to Appellant’s address. However, it again contained an incorrect unit number.¹⁸

On May 28, 2013, the Appeals Referee mailed notice of a June 10, 2013 telephone hearing to Appellant at Appellant’s address but, again, to an incorrect unit number.¹⁹

On June 10, 2013, the Appeals Referee dismissed Appellant’s appeal pursuant to 19 *Del. C.* § 3318(b) for Appellant’s failure to appear at the telephone hearing.²⁰ The Appeals Referee certified that a copy of the decision was mailed to Appellant that same day at Appellant’s address. However, the certification again contained an incorrect unit number.²¹

¹⁶ R. at 29.

¹⁷ *Id.*

¹⁸ R. at 30.

The Claims Deputy certified that the Notice of Determination was mailed to “158 Paper Mill Rd *Apt 110* Lawrenceville, GA 30046.”

¹⁹ R. at 33 (“158 Paper Mill Rd *Apt 110* Lawrenceville, GA 30046”).

²⁰ R. at 34, 36.

²¹ R. at 37 (“158 Paper Mill Rd *Apt 110* Lawrenceville, GA 30046”).

On the face of the decision, Appellant was informed of his right to appeal the decision to the Board “within 10 days after the date of notification or mailing of such decision” and that “06/20/2013” was the last date for him to file an appeal.²²

Two days later (June 12, 2013), someone at the DOL apparently noticed that the Notice of Determination had been sent to an incorrect unit number. An initialed, handwritten note on Appellant’s DOL Claim History / Claim Data sheet reads: “Jackie can you resend dismissal to *correct* address please” and “#1102” is circled next to Appellant’s address.²³

The following day, someone in the DOL wrote “Resent 6/13/13” and initialed a modified copy of the June 10, 2013 decision changing Appellant’s unit number from “Apt 110” to “Apt 1102.”²⁴ The record does not include a copy of the certification of the date that the decision was mailed to Appellant at “Apt 1102.”

In a letter dated June 23, 2013, Appellant appealed the Appeals Referee’s decision and stated that he “was never contacted to be at [a] hearing.”²⁵

The Board held a review hearing on July 3, 2013.²⁶

²² R. at 34, 36.

²³ R. at 35 (emphasis added).

²⁴ R. at 36.

²⁵ R. at 37.

On July 9, 2013, the Board found that Appellant’s appeal of the Appeals Referee’s June 10, 2013 decision was untimely under 19 *Del. C.* § 3318(c).²⁷ The Board noted that the Appeals Referee’s decision was sent to Appellant’s address of record (without specifying an address), Appellant’s appeal was filed four days after the last date to file an appeal (“06/20/2013”), there was no evidence of an “error [by the DOL] which prevented the [Appellant] from filing a timely appeal,” and Appellant “has been given notice and opportunity to be heard sufficient to satisfy the requirements of due process.”²⁸ The Board denied further review and affirmed the Appeals Referee’s decision.

On July 16, 2013, Appellant appealed the Board’s decision.²⁹ He filed an opening brief on October 31, 2013.

The Board filed a letter memorandum in lieu of an answering brief on November 18, 2013.

Appellant did not submit a reply brief.³⁰

²⁶ R. at 38.

²⁷ R. at 38 – 42.

In its written decision, the Board affirms “the Appeals Referee finding that [Appellant] was terminated for just cause.” *See* R. at 39. However, the Appeals Referee dismissed Appellant’s appeal for his failure to attend the telephone hearing on June 10, 2013.

²⁸ R. at 39.

²⁹ R. at 46 – 48.

³⁰ On December 12, 2013, the Prothonotary mailed a Final Delinquent Brief Notice to Appellant in accordance with Superior Court Civil Rule 107(f). Appellant did not take further action of record or provide further information. As a result, the Court issued an order on January 15, 2014 that the matter would be determined based on the papers which had already been filed.

Parties' Contentions

Appellant, who is *pro se*, argues the merit of a disqualification determination. Appellant does not address whether his appeal of the Appeals Referee's decision was untimely. However, in his appeal to the Board, Appellant asserted that he "was never contacted to be at [a] hearing."³¹

The Board asserts that there is substantial evidence in the record to support its finding that Appellant's appeal was untimely. The Board maintains that the last day to appeal the Appeals Referee's decision (June 20, 2013) was displayed on the face of the decision that was mailed to Appellant's address of record, Appellant "unequivocally filed his appeal [to the Board] after that date" by way of a letter postmarked June 24, 2013, and there is no evidence of error by the DOL.³²

The Board further asserts that even if Appellant's appeal to the Board was timely, Appellant did not exhaust his administrative remedies because he failed to present the merits of his case to the Appeals Referee and, as such, the Court should dismiss the instant appeal for want of jurisdiction.

Standard of Review

On appeal from a Board decision, the Court's role is limited to determining whether the Board's findings are supported by substantial evidence in the record

³¹ R. at 37.

³² Bd. Ltr. to the Court, p. 2 (Nov. 18, 2013).

and those findings are free from legal error.³³ Substantial evidence is “such relevant evidence that a reasonable mind would accept as adequate to support a conclusion.”³⁴ The Court does not weigh evidence, determine questions of credibility, or make findings of fact.³⁵

In addition, the Court reviews a procedural decision by the Board for an abuse of discretion.³⁶ The Board abuses its discretion when it “acts arbitrarily or capriciously or exceeds the bounds of reason in view of the circumstances, and has ignored recognized rules of law or practice so as to produce injustice.”³⁷

If the Court finds that the Board has abused its discretion³⁸ or that “there were no adequate findings of fact and conclusions of law on [a] pivotal issue, the decision of the Board must be reversed and remanded for further proceedings.”³⁹

Discussion

Pursuant to 19 *Del. C.* § 3318(c), an Appeals Referee’s decision becomes final within ten days “after the date of notification or mailing” of the decision

³³ 19 *Del. C.* § 3323(a); *Unemployment Ins. Appeal Bd. v. Duncan*, 337 A.2d 308, 308-09 (Del. 1975). *See also Cooper v. Unempl. Ins. Appeal Bd.*, 2010 WL 3530016, *1 (Del. Sept. 13, 2010).

³⁴ *Ezekielokorie v. Brandywine Nursing Home*, 2011 WL 6034784, * 1 (Del. Super. Dec. 2, 2011) (citing *Oceanport Indus., Inc. v. Wilm. Stevedores, Inc.*, 636 A.2d 892, 899 (Del. 1994)).

³⁵ *Thompson v. Christiana Care Health Sys.*, 25 A.3d 778, 782 (Del. 2011).

³⁶ *Funk v. Unempl. Ins. Appeal Bd.*, 591 A.2d 222, 225 – 26 (Del. 1991).

³⁷ *Santore v. Unempl. Ins. Appeal Bd.*, 2012 WL 6947104, *3 (Del. Super. Oct. 15, 2012) (internal quotation marks and citation omitted). *See also Greene v. Contemporary Staffing*, 2012 WL 2700483, *2 (Del. Super. June 27, 2012).

³⁸ *Petrilli v. Discover Bank*, 2012 WL 1415705, *4 (Del. Super. Mar. 2, 2012).

³⁹ *Bd. of Educ., Capital Sch. Dist. v. Johns*, 2002 WL 471175, *2 (Del. Super. Mar. 27, 2002).

unless the decision is appealed to the Board. The period within which an appeal must be filed begins to run on the date that the decision is mailed.⁴⁰ If an appeal is filed by mail, the date that such appeal is mailed is “deemed to be the day of filing.”⁴¹ An appeal that is not filed within the ten-day statutory period is untimely.⁴²

In the instant case, the ten-day statutory period did not begin to run until the decision was mailed to Appellant at Appellant’s correct address of record. Thus, the mailing date to the correct address was June 13, 2013. Hence, the last day for Appellant to appeal was June 24, 2013 and the Board’s decision based on a June 20, 2013 cutoff date is incorrect.⁴³

In Delaware, it is presumed that notice that “is sent by mail with the proper address and postage has been received by the intended party.”⁴⁴ Mere denial that notice was received “is insufficient to rebut this presumption.”⁴⁵ However, the

⁴⁰ *Funk v. Unempl. Ins. Appeal Bd.*, 591 A.2d at 224; *Ezekielokorie v. Brandywine Nursing Home*, 2011 WL 6034784 at * 1.

⁴¹ 19 *Del. C.* § 3304 (“When any notice, report or other document is required to be filed under this chapter and the same is forwarded by mail to the Department, the day of mailing shall be deemed to be the day of filing”). *See also deJesus v. City of Wilm.*, 2014 WL 1275362, *2 (Del. Super. Mar. 31, 2014) (“In calculating the ten calendar days, ‘[t]he day of mailing shall be deemed to be the day of filing’”) (quoting *Martin v. Unempl. Ins. Appeal Bd.*, 2004 WL 772073, *3 (Del. Super. Feb. 25, 2004)).

⁴² *Powell v. Unempl. Ins. Appeal Bd.*, 2013 WL 3834045, *2 (Del. Super. July 23, 2013).

⁴³ Because the 10-day statutory deadline (June 23, 2013) fell on a Sunday, Appellant had until the following Monday (June 24, 2013) to timely file an appeal. *See* p. 14, *infra*.

⁴⁴ *Ezekielokorie v. Brandywine Nursing Home*, 2011 WL 6034784 at * 1.

⁴⁵ *McCleaf v. Unempl. Ins. Appeal Bd.*, 2012 WL 6914479, *3 (Del. Super. Dec. 12, 2012). *See also Stemmer v. Colby Enters.*, 2012 WL 5550771, *3 (Del. Super. Nov. 14, 2012) (finding the appellant’s testimony that he did not receive the determination was insufficient to show a DOL mistake); *Ezekielokorie v. Brandywine Nursing Home*,

“presumption may be rebutted by evidence that notice was never received.”⁴⁶ A party’s right to due process is violated where there is evidence that the DOL “was at fault for a misdelivery.”⁴⁷ Consequently, where a “mailing fails to reach a party because of some mistake made by employees of the Department of Labor,” the Board has the discretion to consider the appeal, even if it is filed after the ten-day statutory period.⁴⁸

Here, the DOL did not mail the Appeals Referee’s decision to the proper address on June 10, 2013, so the ten-day statutory deadline was not June 20, 2013. Mail to the proper address occurred on June 13, 2013.

From 2011 through 2013, Appellant consistently reported to the DOL that his unit number was #1102 at his apartment complex. Since the filing of his Initial Interstate Claim form and including additional documents to the DOL (i.e., a second claim form and two appeal letters), Appellant has always supplied his address and unit number as #1102.

However, the record shows that the DOL, from 2011 until June 12, 2013, consistently sent mail to the wrong unit number. Indeed, the DOL did not send

2011 WL 6034784, * 1 (noting “a claim that one did not receive the Claims Deputy’s decision without a showing of error by the Department of Labor has not been a ‘sufficient reason for the [Board] to assert jurisdiction of an untimely appeal’ in the past”) (quoting *Lively v. Dover Wipes Co.*, 2003 WL 21213415, *1 (Del. Super. May 16, 2003)).

⁴⁶ *Straley v. Adv. Staffing, Inc.*, 2009 WL 1228572 at * 3.

⁴⁷ *Id.* at *3 (citing *Funk v. Unempl. Ins. Appeal Bd.*, 1989 WL 158472, *4 (Del. Super. Dec. 13, 1989)).

⁴⁸ *Funk v. Unempl. Ins. Appeal Bd.*, 591 A.2d at 224.

mail to the correct unit number until June 13, 2013 when someone instructed “Jackie” to resend mail to Appellant using the “correct” unit number and someone then wrote “Resent 6/13/13” on a copy of the decision that had been modified to reflect Appellant’s unit number as #1102.

Thus, because the DOL made a mistake as to Appellant’s mailing address, it cannot be presumed that a “proper mailing” went out or that Appellant received the copy of the decision that was mailed on June 10, 2013. As such, the ten-day statutory appeal period should have been adjusted in accordance with 19 *Del. C.* § 3318(c). However, the record shows that although the Appeals Referee’s decision was “resent” to Appellant’s “correct address” on June 13, 2013, the mailing date on the decision was unchanged.

Appellant had ten days from June 13, 2013 (the date that the decision was properly mailed to his correct address of record) to timely file an appeal. Furthermore, because June 23, 2013 fell on a Sunday, and Sundays are excluded from the ten-day period within which to file an appeal, Appellant had until the following day (Monday, June 24, 2013) to file the appeal.⁴⁹

⁴⁹ See 19 *Del. C.* § 3304 (“When the day, or the last day, for doing any required act to be done falls on Saturday, Sunday, or a holiday, the act may be done on the first ensuing day that is not a Saturday, Sunday or holiday”). See also *Von Fegyverneky v. CFT Ambul. Serv.*, 2012 WL 2700464, * (Del. Super. June 28, 2012) (noting that the 10-day statutory deadline within which to file an appeal fell on a Saturday and, as such, the appellant had until the following Monday to file an appeal).

Here, the Board found that Appellant's appeal was postmarked on June 24, 2013.⁵⁰ Thus, his appeal was timely filed within the ten-day statutory period.

In addition, the Appeals Referee dismissed Appellant's appeal on the basis that he failed to appear for a scheduled hearing. However, the Board did not address Appellant's claim that he never received notice of a hearing.

The record again shows that the notice for the June 10, 2013 telephone hearing before the Appeals Referee on the issue of timeliness was mailed to the incorrect unit number (#110) and that the Claims Deputy's determination informing Appellant that he would be notified of the date, time, and place of such hearing was also mailed to that same incorrect unit number.

As a result, Appellant was not "duly noticed" of the scheduled hearing before the Appeals Referee⁵¹ nor can it be presumed that Appellant ever received the Claims Deputy's determination.⁵²

⁵⁰ The postmarked envelope was not included in the record.

⁵¹ See *Miller v. Hersha Hospitality*, 2013 WL 2296307, * (Del. Super. Apr. 17, 2013) (affirming the Board's decision not to issue a decision on the merits where the appellant failed to appear for a hearing before the Appeals Referee on the issue of timeliness of her appeal or give a reason for her absence, despite having been "duly noticed" of that hearing).

⁵² See *Cooper v. Unempl. Ins. Appeal Bd.*, 2010 WL 3530016, *1 (Del. Sept. 13, 2010) (finding that testimony at a hearing before an appeals referee that the DOL mailed notice to the appellant's address of record on a specific date supported the Board's decision not to consider the untimely appeal); *Simmens v. General Motors Corp.*, 2012 WL 1415503, * 1 (Del. Super. Apr. 10, 2012) (noting the appellant confirmed at the hearing before the Appeals Referee that the DOL had his correct mailing address and that he received the Claims Deputy's decision in the mail);

Finally, the Board's assertion that the Court should dismiss the instant case for want of jurisdiction is premised on its finding that the February 15, 2012 disqualification determination became final, which is an error.

Under 19 *Del. C.* § 3318(b), the Claims Deputy's determination becomes final unless a party files an appeal within ten calendar days after the determination is mailed to the party's last known address.⁵³ Although the Board lacks the power to accept an appeal of a decision which has become final⁵⁴, the Board has the discretion to consider an untimely appeal *sua sponte* in certain circumstances.⁵⁵ Such circumstances include where "there has been some administrative error on the part of the [DOL] which deprived [a party] of the opportunity to file a timely appeal, or in those cases where the interests of justice would not be served by inaction."⁵⁶

Here, there is no indication that the February 15, 2012 disqualification determination was mailed to Appellant's correct last known address. In fact, the

⁵³ See 19 *Del. C.* § 3318(b) ("Unless a claimant or a last employer . . . files an appeal within 10 calendar days after such Claims Deputy's determination was mailed to the last known addresses of the claimant and the last employer, the Claims Deputy's determination shall be final . . .").

⁵⁴ *Chrysler Corp. v. Dillon*, 327 A.2d 604, 605 (Del. 1974). See also *Powell v. Unempl. Ins. Appeal Bd.*, 2013 WL 3834045 at *2 ("The [Board] lacks the power to accept a late appeal from a party because the [Board] is a creature of statute and the parties are subject to a statutory ten-day limitation period") (internal quotation marks and citation omitted).

⁵⁵ *Santore v. Unempl. Ins. Appeal Bd.*, 2012 WL 6947104 at *4 (citing 19 *Del. C.* § 3320); *Purdie-Morris v. Unempl. Ins. Appeal Bd.*, 2006 WL 1679390, *2 (Del. Super. Apr. 10, 2006).

⁵⁶ *Funk v. Unempl. Ins. Appeal Bd.*, 591 A.2d at 225. See also *Bradfield v. Unempl. Ins. Appeal Bd.*, 2012 WL 3776670, * 2 (Del. Aug. 31, 2012) (finding the appellant's failure to respond to the DOL's notices of determination "was not caused by the State's administrative error" and, thus, did "not fall within the narrow category of 'severe' circumstances under which the [Board] will consider untimely appeals").

record shows that the determination was mailed to an incorrect unit number at Appellant's apartment complex. Moreover, it is unclear whether Appellant had appealed the February 2012 disqualification determination because Appellant appealed a "repayment" decision and only disqualification determinations were included in the record.

Because the record shows circumstances where there was an administrative error on the DOL's part that deprived Appellant of the opportunity to file a timely appeal (i.e., the DOL mailed notice of determinations and of a hearing to an incorrect address), the Board abused its discretion in declining to consider Appellant's appeal of the Appeals Referee's decision.

Conclusion

Therefore, the Board erred in its decision that Appellant untimely filed his appeal four days after the Appeals Referee's dismissal became final, and its findings are not supported by substantial evidence in the record. The Board also abused its discretion by failing to consider the appeal, despite evidence that the DOL mailed notice of the Claims Deputy's determinations and the hearing on the issue of timeliness to an incorrect unit number.

ACCORDINGLY, the Board’s decision is **REVERSED** and the matter is **REMANDED** to the Board “for further consideration.”⁵⁷

IT IS SO ORDERED.

Diane Clarke Streett
Judge

Original to Prothonotary

cc: Godfred Sekyere, *Pro Se* Appellant
Catherine Damavandi, Deputy Attorney General

⁵⁷ *Patterson v. Red Clay Consol. Sch. Dist.*, 2013 WL 4522167, *4 (Del. Super. June 28, 2013) (citing *Alfree v. Johnson Controls, Inc.*, 1996 WL 190015, *1 (Del. Super. Mar. 20, 1996)). See also *Bailey v. MBNA America Bank, N.A.*, 1991 WL 1304159, *4 (Del. Super. Aug. 12, 1991) (holding “if the record clearly indicates that the administrative agency made its decision on improper or inadequate grounds, discretion has been abused and reversal upon judicial review is required”) (internal quotation marks and citation omitted).